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SUBJECT: Kenya's Mayoral Elections Show ODM Strength,
Need for Reform

Reftel: NAIROBI 384

¶1. Summary: On February 25, Kenyan city councils nationwide held mayoral elections. Comporting with the sordid tradition of such elections in Kenya, tales of blatant vote-buying and graft abounded on all sides. The Orange Democratic Movement (ODM) won a plurality of council seats nationwide during December's general elections and dominates the councils in Kenya's five largest cities. It easily won mayoral seats in three of them -- Mombasa, Kisumu, and Eldoret -- while the Nakuru municipal council remains locked in a stalemate over procedural disputes. In a protested move, Minister of Local Government Uhuru Kenyatta used his office to unilaterally alter the list of councilors nominated to the Nairobi City Council in favor of President Kibaki's Party of National Unity (PNU). This maneuver led to a tied election and a power-sharing deal between ODM (mayor) and PNU (deputy mayor). Kenya's history of weak local government shows that citizens are unlikely to see improved accountability or service delivery until major institutional reforms in local governance are made. End Summary.

Local Leadership Elections: Not
A Model of Democracy

¶2. As noted in reftel, on February 7, Minister of Local Government Uhuru Kenyatta announced that February 25 would be the day for local city and county councilors to elect their leaderships. On February 25, there were 45 mayoral elections (for city and municipal councils) and 129 elections for chairmen (for town and county councils).

¶3. Kenya's ad hoc and marginally democratic local government structure reflects its history as a tool of political patronage. Unlike presidential elections, mayors and council chairmen are elected to their positions by fellow councilors rather than the general public. As in Parliament, not all councilors are elected, and often, winning mayors and chairmen come into the councils via the party nomination -- rather than the electoral -- process.

¶4. Comporting with the sordid tradition of such elections in Kenya, tales of blatant vote-buying and

graft abounded on all sides in the run-up to and during the elections. Every day local media and contacts reported one council-person after another selling their vote while enjoying an all-expense paid vacation in some swanky, 5-star regional resort.

ODM Mayors in Kenya's Key Cities

¶5. The Orange Democratic Movement dominated civic elections in December, winning 1,053 of 2,498 local council seats nationwide. The Party of National Unity (PNU) came in a distant second, with 437 seats. The other 928 seats were won by a mixture of other party candidates. (Note: Like many of the electoral results announced by the disgraced Electoral Commission of Kenya, the numbers do not add up. In this case, results from the remaining 90 wards were either invalidated or simply not posted. End note.)

¶6. ODM's domination of civic elections translated to a large number of mayoral victories on February 25. Four of Kenya's five largest cities -- Mombasa, Kisumu, Eldoret, and Nairobi -- have new ODM mayors and the fifth, Nakuru, should go ODM in the near future as well. In Mombasa, nominated councilor Abubakar Mondhar (who was seen as representing Mombasa's indigenous Swahili and black population) beat Tawfiq Balala (who had the support of the affluent, ethnic 'white' Arab business community). Businessman and nominated councilor Sam Okello, the new mayor for Kisumu, ran unopposed after ODM intra-party wrangling muscled out other candidates. In a rare battle

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between two elected councilors, Samuel Ruto beat Eusilah Ngeny to become the new mayor of Eldoret.

¶7. In Nakuru, Kenya's fourth largest city, civic leaders reportedly engaged in brawls after PNU representatives objected to the legitimacy of the (Ministry of Local Government-appointed) town clerk and refused to participate in the elections. The elections were postponed. (Note: With 11 ODM councilors to PNU's eight, ODM seems poised to win the election thus should control the office of mayor in all five of Kenya's largest cities. End Note.)

Nairobi's Mayoral Election Brings Controversy

¶8. In Nairobi, the contest was expected to be between elected ODM Councilor Godfrey Majiwa and Esther Passaris, who quit her job at the Adopt-a-Light program in anticipation of an ODM nomination for one of the council's appointed seats. Passaris was reportedly favored by ODM leadership, but Majiwa had the backing of other elected councilors.

¶9. In the run-up to the race, however, Minister of Local Government Uhuru Kenyatta demonstrated the strong control he retains over local council appointments. In a surprise move late on February 22, he omitted Passaris' name from the list of nominated councilors to be gazetted and replaced a number of other ODM nominees with PNU nominees. Kenyatta provided no explanation for the nine extra PNU names on the list of nominated councilors, but said that there was a conflict of interest in Passaris' nomination to the City Council, as her Adopt-A-Light program and the Nairobi City Council are embroiled in a number of legal disputes over a cancelled contract to provide street light services in Nairobi.

¶10. The last-minute changes to the terms of the contest led to a tied vote on election day: 42 votes for Majiwa

and 42 votes for PNU candidate John Njoroge Chege. Rather than participate in the tie-breaking mechanism provided in the Local Government Act -- the drawing of lots to determine the winner -- Majiwa teamed up with Passaris to file a court case challenging the elections. The dispute ended on February 27 in an ODM-PNU power-sharing deal: ODM's Majiwa will be Nairobi's new mayor, and PNU's Chege the new deputy mayor.

¶11. (Note: The Local Government Act gives the Minister of Local Government the authority to nominate up to one third of the total number of local council seats 'to represent the government or special interests.' While there is a sense among the opposition that the government should honor the spirit of a 1997 inter-party agreement calling for proportional allocation of nominated seats according to each party's strength in individual councils, the agreement was never formalized into law. End Note.)

Traditionally Weak Local Government
Unlikely to Deliver Without Major Reform

¶12. Whenever local councils have been given more responsibility to deliver services, they have failed miserably. While the corruption and greed of councilors themselves explains part of the story, it is also because local councils are never provided sufficient training or resources to perform well. Regardless of the reason, poor performance has always been used as an excuse to entrench power at the national level. The position of council clerk, nominated by the Minister of Local Government, is routinely used to ensure that local councils do not stray too far from the central government on key issues.

¶13. As a result, average Kenyans have little faith in the ability of their local councils to deliver. During a recent call-in radio show in Kisumu, one listener lamented, "We want mayors elected directly by the people,

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the way we do in general elections. It is the only way to make councilors accountable to the people." Another listener grumbled, "The mayors are controlled by businessmen who finance their campaigns. These businessmen are the ones reaping from the councils through scandalous tenders. As a result, the common man cannot get proper services from the council."

¶14. Comment: Although the ODM dominated local and parliamentary elections with its message of change, the change needed to improve service delivery from local councils will have to be the institutional kind. A national power-sharing deal between PNU and ODM is meant to set the stage for more fundamental reforms that will improve Kenya's governance structure and address longstanding social grievances. Empowering local councils (and making them more accountable to the people) is one on a long list of priorities that await parliament's attention. Until then, Kenyans should expect more of the same, regardless of who won on February 25. End Comment.

RANNEBERGER